

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

PEGGY COX, *et al.*,

Plaintiffs,

Case No. 3:20-cv-272

vs.

CHRISTMAS TREE SHOPS, INC., *et al.*,

District Judge Michael J. Newman

Defendants.

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**ORDER (1) DISMISSING PLAINTIFF PEGGY COX'S CLAIMS WITHOUT  
PREJUDICE; (2) DENYING DEFENDANTS' MOTION TO DISMISS (DOC. NO. 20);  
AND (3) DIRECTING THE CLERK TO REMOVE MS. COX'S NAME FROM THE  
DOCKET**

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This civil case came before the Court on Plaintiffs' counsel's request to dismiss Plaintiff Peggy Cox's claims without prejudice. Doc. No. 24. On March 10, 2021, Plaintiffs noticed a suggestion of Ms. Cox's death. Doc. No. 22. The Court requested Plaintiffs file a status report indicating whether Ms. Cox's successor or representative intended to file a motion for substitution. Doc. No. 23. Plaintiffs' counsel filed a status report on March 17, 2021 stating that Ms. Cox's successor will not prosecute the claims on her behalf. Doc. No. 24. However, Plaintiff Randall Frederick intends to pursue his claims. *Id.* Accordingly, Ms. Cox's claims are **DISMISSED WITHOUT PREJUDICE**. Fed. R. Civ. P. 41(a)(2). The litigation will continue with Mr. Frederick as Plaintiff.

Because Defendants' pending motion to dismiss targets Ms. Cox's claims (Doc. No. 20), it is **DENIED AS MOOT**. The Court will set this matter for a preliminary pretrial conference by separate order.

**IT IS SO ORDERED.**

Date: May 7, 2021

s/Michael J. Newman  
Hon. Michael J. Newman  
United States District Judge